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TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>	Application Number	09/809,678
	Filing Date	March 14, 2001
	First Named Inventor	Philip J. Lucas
	Art Unit	3637
	Examiner Name	Chen, Jose V.
Total Number of Pages in This Submission	Attorney Docket Number	CBC 2001-2

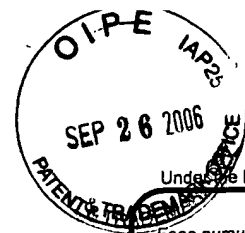
ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
<div>Remarks</div>		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	KLAAS, LAW, O'MEARA & MALKIN, P.C.		
Signature			
Printed name	Nellie C. Kaufman, Esq.		
Date	September 20, 2006	Reg. No.	34,689

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:			
Signature			
Typed or printed name	Kalyn Black	Date	September 20, 2006

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Effective on 12/08/2004.

Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL

For FY 2006

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$)

Complete if Known

Application Number	09/809,678
Filing Date	March 14, 2001
First Named Inventor	Philip J. Lucas
Examiner Name	Chen, Jose V.
Art Unit	3637
Attorney Docket No.	CBC 2001-2

METHOD OF PAYMENT (check all that apply)☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____☒ Deposit Account Deposit Account Number: 11-1150 Deposit Account Name: Klaas, Law, O'Meara Malkin

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee
☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☐ Credit any overpayments

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FEE CALCULATION**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES**Fee Description**

Each claim over 20 (including Reissues)

Each independent claim over 3 (including Reissues)

Multiple dependent claims

Fee (\$)	Small Entity Fee (\$)
50	25
200	100
360	180

Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
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- 20 or HP = _____ x _____ = _____

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
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- 3 or HP = _____ x _____ = _____

HP = highest number of independent claims paid for, if greater than 3.

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
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_____ - 100 = _____ / 50 = _____ (round up to a whole number) x _____ = _____

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): _____

Fees Paid (\$)

SUBMITTED BY

Signature	<u>Nellie C. Kaufman</u>	Registration No. (Attorney/Agent) 34,689	Telephone (303) 298-9888
Name (Print/Type)	Nellie C. Kaufman, Esq.		Date September 20, 2006

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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-1-

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In Re Application of:)	
)	Confirmation No. 5429
PHILIP J. LUCAS, et al.)	
)	Attorney Docket: CBC 2001-2
Serial No.: 09/809,678)	
)	Examiner: Jose V. Chen
Filed: March 14, 2001)	
)	Group Art Unit: 3637
For: DISPOSABLE/RECYCLABLE)	
PALLET AND METHOD)	

REPLY BRIEF

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This Reply Brief is submitted in response to the Examiner's Answer dated July 24, 2006. This Reply Brief is substantially the same as that filed by Appellants on August 1, 2003, in response to the Examiner's Answer dated June 10, 2003, which was returned undocketed to the Examiner.

With reference to Lawson, U.S. Patent No. 3,730,417 (Lawson '417), the Examiner states on page 5 of the Examiner's Answer, "In response to appellant's remarks that the spacers of Lawson are not adhered to either the inner container (46) or to a load inside the inner container (46) and therefore do not act as a 'base' for any load or product inside the inner container (46), note the following. The patent to Lawson at column 5, lines 9-33 state among other things, 'The inner container 46 has formed along their bottom thereof a plurality of flaps 54 and a

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plurality of bottom flaps 56 which are hingedly attached to the sides 48 and 50 by means of score lines 58.... The spacers 60 are fixedly attached by means of glue or some other suitable fastening means to the bottom flaps 54 and 56.” However, the Examiner took the quoted portions of Lawson ‘417 out of context and then prematurely ended the quote, thereby changing its intended meaning. In column 5, on lines 28-33, Lawson states as follows (emphasis added, with the portion of the quote deleted by the Examiner in bold type):

“The spacers 60 are fixedly attached by means of glue or some other suitable fastening means to the bottom flaps 54 and 56 **which form the bottom of the outer container 12 whenever said outer container is formed into the container shown in FIG. 2.**”

The following quotes from Lawson ‘417 clearly show that, as Appellants contend in their Appeal Brief, the spacers (60) are not fixedly attached to the inner container (46) and are instead fixedly attached only to the inside surface of the outer container (12):

“The **outer container has a plurality of spacers fixed to the bottom of the container....** Contained within the outer container and **resting on top of the plurality of spacers is an inner container....**” Lawson ‘417, Abstract (emphasis added).

“To the basic outer paperboard container is added **a plurality of spacers which are fixedly attached to the bottom of the outer container** in a spaced relationship.... Into this basic structure is inserted **an inner container having formed thereon a plurality of bottom flaps with the flaps being folded inwardly and positioned on top of the spacers....**” Lawson ‘417, column 2, lines 47-55 (emphasis added).

“**The spacers 60 are fixedly attached to the bottom of the outer container 12** in a spaced relationship to each other....” Lawson ‘417, column 5, lines 33-35 (emphasis added).

“In operation the combination pallet/container is formed at the job site by means of rapidly forming the outer container by means well known in the art, **placing therein the plurality of spacers and fixedly attaching them to the**

bottom of the outer container 12. Thereupon the inner container 46 is rapidly set up in the form shown in FIG. 2 and is inserted into the outer container 12 with its bottom flaps 54 and 56 being positioned on top of the spacers 60.” Lawson ‘417, column 5, lines 43-51 (emphasis added).

In view of the above, Appellants maintain that, as argued in Appellants’ Appeal Brief, the spacers (60) of Lawson ‘417 are not adhered to either the inner container (46) or to a load inside the inner container (46) and therefore do not act as a “base” for any load or product placed inside the inner container (46). Instead, it is clear that the spacers (60) of Lawson ‘417 are adhered only to the inner surface of the outer container (12) and therefore could not possibly be used as a “base” for either the inner container (46) or any product or load placed inside the inner container (46).

Respectfully submitted,

KLAAS, LAW, O'MEARA & MALKIN, P.C.



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September 20, 2006